

Assembly Constitutional Amendment

No. 39

Introduced by Assembly Member Takasugi

March 25, 1998

Assembly Constitutional Amendment No. 39—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 39, as introduced, Takasugi. Property taxation: base year value.

Existing provisions of the California Constitution, with certain exceptions, place a limitation on ad valorem taxes on real property of 1% of the full cash value of that property. For purposes of this limitation, full cash value is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.

The California Constitution permits the Legislature to provide for an exception to reappraisal upon purchase, change in ownership, or new construction of real property by authorizing persons over 55 years of age and persons who are severely and permanently disabled, as specified, to transfer the base year value of their home to a replacement home in the same county. The California Constitution also permits the Legislature to provide for the transfer of the base year value

of a person's home in one county to a replacement home in another county under the same circumstances if the transfer is provided for in an ordinance adopted by the board of supervisors of the county in which the replacement home is located.

This measure would amend the California Constitution to permit the Legislature to provide for the transfer of the base year value of a person's home to a replacement home in the same or another county for the same categories of eligible homeowners without requiring the adoption of an ordinance by a county board of supervisors permitting the intercounty transfer of base year value.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring, That*
2 the Legislature of the State of California at its 1997–98
3 Regular Session commencing on the second day of
4 December 1996, two-thirds of the membership of each
5 house concurring, hereby proposes to the people of the
6 State of California that the Constitution of the State be
7 amended by amending Section 2 of Article XIII A
8 thereof, to read:

9 SEC. 2. (a) The full cash value means the county
10 assessor's valuation of real property as shown on the
11 1975–76 tax bill under "full cash value" or, thereafter, the
12 appraised value of real property when purchased, newly
13 constructed, or a change in ownership has occurred after
14 the 1975 assessment. All real property not already
15 assessed up to the 1975–76 full cash value may be
16 reassessed to reflect that valuation. For purposes of this
17 section, "newly constructed" does not include real
18 property ~~which~~ *that* is reconstructed after a disaster, as
19 declared by the Governor, where the fair market value of
20 the real property, as reconstructed, is comparable to its
21 fair market value prior to the disaster. Also, the term
22 "newly constructed" ~~shall~~ *does* not include the portion of
23 reconstruction or improvement to a structure,
24 constructed of unreinforced masonry bearing wall
25 construction, necessary to comply with any local



1 ordinance relating to seismic safety during the first 15
2 years following that reconstruction or improvement.

3 However, the Legislature may provide that, under
4 appropriate circumstances and pursuant to definitions
5 and procedures established by the Legislature, any
6 person over the age of 55 years who resides in property
7 ~~which~~ *that* is eligible for the homeowner's exemption
8 under subdivision (k) of Section 3 of Article XIII and any
9 implementing legislation may transfer the base year
10 value of the property entitled to exemption, with the
11 adjustments authorized by subdivision (b), to any
12 replacement dwelling of equal or lesser value located
13 within the same *or another* county and purchased or
14 newly constructed by that person as his or her principal
15 residence within two years of the sale of the original
16 property. For purposes of this section, "any person over
17 the age of 55 years" includes a married couple one
18 member of which is over the age of 55 years. For purposes
19 of this section, "replacement dwelling" means a building,
20 structure, or other shelter constituting a place of abode,
21 whether real property or personal property, and any land
22 on which it may be situated. For purposes of this section,
23 a two-dwelling unit shall be considered as two separate
24 single-family dwellings. This paragraph ~~shall apply~~
25 *applies* to any replacement dwelling ~~which~~ *that* was
26 purchased or newly constructed on or after ~~November 5,~~
27 ~~1986~~ *one of the following applicable dates: with respect to*
28 *a transfer of base year value within the same county,*
29 *November 5, 1986; with respect to a transfer of base year*
30 *value from one county to another county that has in effect*
31 *an ordinance authorizing the intercounty transfer of base*
32 *year value, November 9, 1988; with respect to a transfer*
33 *of base year value from one county to another county that*
34 *does not have in effect an ordinance authorizing the*
35 *intercounty transfer of base year value, November 4,*
36 *1998.*

37 ~~In addition, the Legislature may authorize each county~~
38 ~~board of supervisors, after consultation with the local~~
39 ~~affected agencies within the county's boundaries, to~~
40 ~~adopt an ordinance making the provisions of this~~



1 ~~subdivision relating to transfer of base year value also~~
2 ~~applicable to situations in which the replacement~~
3 ~~dwelling is located in that county and the original~~
4 ~~properties are located in another county within this State.~~
5 ~~For purposes of this paragraph, "local affected agency"~~
6 ~~means any city, special district, school district, or~~
7 ~~community college district which receives an annual~~
8 ~~property tax revenue allocation. This paragraph shall~~
9 ~~apply to any replacement dwelling which was purchased~~
10 ~~or newly constructed on or after the date the county~~
11 ~~adopted the provisions of this subdivision relating to~~
12 ~~transfer of base year value, but shall not apply to any~~
13 ~~replacement dwelling which was purchased or newly~~
14 ~~constructed before November 9, 1988.~~

15 The Legislature may extend the provisions of this
16 subdivision relating to the transfer of base year values
17 from original properties to replacement dwellings of
18 homeowners over the age of 55 years to severely disabled
19 homeowners, but only with respect to those replacement
20 dwellings purchased or newly constructed on or after the
21 ~~effective date of this paragraph~~ *June 6, 1990.*

22 (b) The full cash value base may reflect from year to
23 year the inflationary rate not to exceed 2 percent for any
24 given year or reduction as shown in the consumer price
25 index or comparable data for the area under taxing
26 jurisdiction, or may be reduced to reflect substantial
27 damage, destruction, or other factors causing a decline in
28 value.

29 (c) For purposes of subdivision (a), the Legislature
30 may provide that the term "newly constructed" ~~shall~~
31 *does not* include any of the following:

32 (1) The construction or addition of any active solar
33 energy system.

34 (2) The construction or installation of any fire
35 sprinkler system, other fire extinguishing system, fire
36 detection system, or fire-related egress improvement, as
37 defined by the Legislature, ~~which that~~ *is* constructed or
38 installed after ~~the effective date of this paragraph~~
39 *November 7 1984.*

1 (3) The construction, installation, or modification on
2 or after ~~the effective date of this paragraph~~ *June 6, 1990*,
3 of any portion or structural component of a single or
4 multiple family dwelling ~~which~~ *that* is eligible for the
5 homeowner's exemption if the construction, installation,
6 or modification is for the purpose of making the dwelling
7 more accessible to a severely disabled person.

8 (4) The construction or installation of seismic
9 retrofitting improvements, or improvements utilizing
10 earthquake hazard mitigation technologies, ~~which~~ *that*
11 are constructed or installed in existing buildings after ~~the~~
12 ~~effective date of this paragraph~~ *November 7, 1990*. The
13 Legislature shall define eligible improvements. This
14 exclusion does not apply to seismic safety reconstruction
15 or improvements ~~which~~ *that* qualify for exclusion
16 pursuant to the last sentence of the first paragraph of
17 subdivision (a).

18 (5) The construction, installation, removal, or
19 modification on or after ~~the effective date of this~~
20 ~~paragraph~~ *June 8, 1994*, of any portion or structural
21 component of an existing building or structure if the
22 construction, installation, removal, or modification is for
23 the purpose of making the building more accessible to, or
24 more usable by, a disabled person.

25 (d) For purposes of this section, the term "change in
26 ownership" ~~shall~~ *does* not include the acquisition of real
27 property as a replacement for comparable property if the
28 person acquiring the real property has been displaced
29 from the property replaced by eminent domain
30 proceedings, ~~by~~ acquisition by a public entity, or
31 governmental action ~~which~~ *that* has resulted in a
32 judgment of inverse condemnation. The real property
33 acquired shall be deemed comparable to the property
34 replaced if it is similar in size, utility, and function, or if
35 it conforms to state regulations defined by the Legislature
36 governing the relocation of persons displaced by
37 governmental actions. The provisions of this subdivision
38 shall be applied to any property acquired after March 1,
39 1975, but shall affect only those assessments of that

1 property ~~which that~~ occur after the ~~provisions of this~~
2 ~~subdivision take effect June 9, 1982.~~

3 (e) (1) Notwithstanding any other provision of this
4 section, the Legislature shall provide that the base year
5 value of property ~~which that~~ is substantially damaged or
6 destroyed by a disaster, as declared by the Governor, may
7 be transferred to comparable property within the same
8 county that is acquired or newly constructed as a
9 replacement for the substantially damaged or destroyed
10 property.

11 (2) Except as provided in paragraph (3), this
12 subdivision ~~shall apply~~ *applies* to any comparable
13 replacement property acquired or newly constructed on
14 or after July 1, 1985, and to the determination of base year
15 values for the 1985–86 fiscal year and *each* fiscal ~~years~~ year
16 thereafter.

17 (3) In addition to the transfer of base year value of
18 property within the same county that is permitted by
19 paragraph (1), the Legislature may authorize each
20 county board of supervisors to adopt, after consultation
21 with affected local agencies within the county, an
22 ordinance allowing the transfer of the base year value of
23 property that is located within another county in the
24 State and is substantially damaged or destroyed by a
25 disaster, as declared by the Governor, to comparable
26 replacement property of equal or lesser value that is
27 located within the adopting county and is acquired or
28 newly constructed within three years of the substantial
29 damage or destruction of the original property as a
30 replacement for that property. The scope and amount of
31 the benefit provided to a property owner by the transfer
32 of base year value of property pursuant to this paragraph
33 ~~shall may~~ not exceed the scope and amount of the benefit
34 provided to a property owner by the transfer of base year
35 value of property pursuant to subdivision (a). For
36 purposes of this paragraph, “affected local agency”
37 means any city, special district, school district, or
38 community college district that receives an annual
39 allocation of ad valorem property tax revenues. This
40 paragraph ~~shall apply~~ *applies* to any comparable

1 replacement property that is acquired or newly
2 constructed as a replacement for property substantially
3 damaged or destroyed by a disaster, as declared by the
4 Governor, occurring on or after October 20, 1991, and to
5 the determination of base year values for the 1991–92
6 fiscal year and *each* fiscal ~~years~~ year thereafter.

7 (f) For the purposes of subdivision (e):

8 (1) Property is substantially damaged or destroyed if
9 it sustains physical damage amounting to more than 50
10 percent of its value immediately before the disaster.
11 Damage includes a diminution in the value of property as
12 a result of restricted access caused by the disaster.

13 (2) Replacement property is comparable to the
14 property substantially damaged or destroyed if it is
15 similar in size, utility, and function to the property ~~which~~
16 *that* it replaces, and if the fair market value of the
17 acquired property is comparable to the fair market value
18 of the replaced property prior to the disaster.

19 (g) For purposes of subdivision (a), the terms
20 “purchased” and “change in ownership” ~~shall~~ *do* not
21 include the purchase or transfer of real property between
22 spouses since March 1, 1975, including, but not limited to,
23 all of the following:

24 (1) Transfers to a trustee for the beneficial use of a
25 spouse, or the surviving spouse of a deceased transferor,
26 or by a trustee of such a trust to the spouse of the trustor.

27 (2) Transfers to a spouse ~~which~~ *that* take effect upon
28 the death of a spouse.

29 (3) Transfers to a spouse or former spouse in
30 connection with a property settlement agreement or
31 decree of dissolution of a marriage or legal separation.

32 (4) The creation, transfer, or termination, solely
33 between spouses, of any coowner’s interest.

34 (5) The distribution of a legal entity’s property to a
35 spouse or former spouse in exchange for the interest of
36 the spouse in the legal entity in connection with a
37 property settlement agreement or a decree of dissolution
38 of a marriage or legal separation.

39 (h) (1) For purposes of subdivision (a), the terms
40 “purchased” and “change in ownership” ~~shall~~ *do* not

1 include the purchase or transfer of the principal
2 residence of the transferor in the case of a purchase or
3 transfer between parents and their children, as defined
4 by the Legislature, and the purchase or transfer of the
5 first ~~\$1,000,000~~ *one million dollars (\$1,000,000)* of the full
6 cash value of all other real property between parents and
7 their children, as defined by the Legislature. This
8 subdivision ~~shall apply~~ *applies* to both voluntary transfers
9 and transfers resulting from a court order or judicial
10 decree.

11 (2) (A) Subject to subparagraph (B), commencing
12 with purchases or transfers that occur on or after ~~the date~~
13 ~~upon which the measure adding this paragraph becomes~~
14 ~~effective~~ *March 27, 1996*, the exclusion established by
15 paragraph (1) also applies to a purchase or transfer of real
16 property between grandparents and their grandchild or
17 grandchildren, as defined by the Legislature, that
18 otherwise qualifies under paragraph (1), if all of the
19 parents of that grandchild or those grandchildren, who
20 qualify as the children of the grandparents, are deceased
21 as of the date of the purchase or transfer.

22 (B) A purchase or transfer of a principal residence
23 ~~shall~~ *may* not be excluded pursuant to subparagraph (A)
24 if the transferee grandchild or grandchildren also
25 received a principal residence, or interest therein,
26 through another purchase or transfer that was excludable
27 pursuant to paragraph (1). The full cash value of any real
28 property, other than a principal residence, that was
29 transferred to the grandchild or grandchildren pursuant
30 to a purchase or transfer that was excludable pursuant to
31 paragraph (1), and the full cash value of a principal
32 residence that fails to qualify for exclusion as a result of
33 the preceding sentence, shall be included in applying, for
34 purposes of subparagraph (A), the one million dollar
35 (\$1,000,000) full cash value limit specified in paragraph
36 (1).

37 (i) Unless specifically provided otherwise,
38 amendments to this section adopted prior to November
39 1, 1988, ~~shall be~~ *are* effective for changes in ownership
40 ~~which that~~ occur, and new construction ~~which that~~ is

1 completed, after the effective date of the amendment.
2 Unless specifically provided otherwise, amendments to
3 this section adopted after November 1, 1988, ~~shall be~~ *are*
4 effective for changes in ownership ~~which~~ *that* occur, and
5 new construction—~~which~~ is completed, on or after the
6 effective date of the amendment.

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